

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	CSR 8548-E
	)	CSR 8549-E
Time Warner Cable Inc.	)	CSR 8550-E
	)	CSR 8551-E
Petitions for Determination of Effective	)	CSR 8552-E
Competition in Communities in Kentucky and	)	CSR 8553-E
Ohio	)	CSR 8554-E
	)	CSR 8555-E

**MEMORANDUM OPINION AND ORDER**

**Adopted: April 15, 2013**

**Released: April 17, 2013**

By the Senior Deputy Chief, Policy Division, Media Bureau:

**I. INTRODUCTION AND BACKGROUND**

1. Time Warner Cable Inc., hereinafter referred to as “Petitioner,” has filed with the Commission petitions pursuant to Sections 76.7, 76.905(b)(1) and 76.907 of the Commission’s rules for a determination that Petitioner is subject to effective competition in those communities listed on Attachment A and hereinafter referred to as “Communities.”<sup>1</sup> Petitioner alleges that its cable system serving the Communities is subject to effective competition pursuant to Section 623(l)(1)(A) of the Communications Act of 1934, as amended (“Communications Act”),<sup>2</sup> and the Commission’s implementing rules,<sup>3</sup> and is therefore exempt from cable rate regulation in the Communities because Petitioner serves fewer than 30 percent of the households in the franchise areas. The petitions are unopposed.

2. In the absence of a demonstration to the contrary, cable systems are presumed not to be subject to effective competition,<sup>4</sup> as that term is defined by Section 623(l) of the Communications Act and Section 76.905 of the Commission’s rules.<sup>5</sup> The cable operator bears the burden of rebutting the presumption that effective competition does not exist with evidence that effective competition is present within the relevant franchise area.<sup>6</sup> For the reasons set forth below, we grant the petitions based on our finding that Petitioner is subject to effective competition in the Communities listed on Attachment A.

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<sup>1</sup> The Petition in CSR 8548-E included the name of Stokes Township in Logan County (OH0491), but incomplete evidence concerning it. Petitioner has requested that that Community be deleted from consideration, and we grant that request. *See* E-Mail from Craig Gilley, Esq., Edwards Wildman Palmer LLP, counsel for Petitioner, to John W. Berresford, Media Bureau Attorney, January 17, 2012, 1:25 PM.

<sup>2</sup> *See* 47 U.S.C. § 543(l)(1)(A).

<sup>3</sup> 47 C.F.R. § 76.905(b)(1).

<sup>4</sup> 47 C.F.R. § 76.906.

<sup>5</sup> *See* 47 U.S.C. § 543(l); 47 C.F.R. § 76.905.

<sup>6</sup> *See* 47 C.F.R. §§ 76.906-907(b).

## II. DISCUSSION

3. Section 623(l)(1)(A) of the Communications Act provides that a cable operator is subject to effective competition if the Petitioner serves fewer than 30 percent of the households in the franchise area. This test is referred to as the “low penetration” test.<sup>7</sup> Petitioner alleges that it is subject to effective competition under the low penetration effective competition test because it serves less than 30 percent of the households in the franchise areas.

4. Based upon the subscriber penetration level calculated by Petitioner, as reflected in Attachment A, we find that Petitioner has demonstrated the percentage of households subscribing to its cable service is less than 30 percent of the households in the Communities. Therefore, the low penetration test is satisfied as to the Communities.

## III. ORDERING CLAUSES

5. Accordingly, **IT IS ORDERED** that the petitions for a determination of effective competition filed in the captioned proceeding by Time Warner Cable Inc., **ARE GRANTED**.

6. **IT IS FURTHER ORDERED** that the certification to regulate basic cable service rates granted to or on behalf of any of the Communities set forth on Attachment A **IS REVOKED**.

7. This action is taken pursuant to delegated authority pursuant to Section 0.283 of the Commission’s rules.<sup>8</sup>

FEDERAL COMMUNICATIONS COMMISSION

Steven A. Broeckaert  
Senior Deputy Chief, Policy Division, Media Bureau

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<sup>7</sup> 47 U.S.C. § 543(l)(1)(A).

<sup>8</sup> 47 C.F.R. § 0.283.

## ATTACHMENT A

## CSRs 8548-E, 8549-E, 8550-E, 8551-E

## COMMUNITIES SERVED BY TIME WARNER CABLE INC.

Communities	CUIDs	Franchise Area Households	Cable Subscribers	Penetration Percentage
<b>CSR 8548-E</b>				
Harrison Township (Logan County)	OH1992	1,221	134	10.97
Jackson Township (Knox County)	OH2987	355	49	13.80
Jefferson Township (Logan County)	OH1991	1,148	201	17.51
Jefferson Township (Madison County)	OH0826	2,737	340	12.42
Lake Township (Logan County)	OH1990	5,124	53	1.03
Liberty Township (Logan County)	OH1993	1,345	50	3.72
Monroe Township (Logan County)	OH3015 OH3110	611	2	.33
Richland Township	OH3111	981	4	.41
Ridgeway Village	OH1562	125	37	29.60
Rushcreek Township (Logan County)	OH3109	800	1	.13
Union Township (Logan County)	OH3108	307	11	3.58
Urbancrest Village	OH2907	337	85	25.22
Washington Township (Hardin County)	OH3103	306	12	3.92
<b>CSR 8549-E</b>				
Blakeslee Village	OH3131	45	1	.02
Edon Village	OH3132	30	1	.03
Florence Township (Williams County)	OH3133	779	1	.01
Gorham Township (Fulton County)	OH3046	900	7	.78
Grand Rapids Township (Wood County)	OH1265	534	48	8.99
Latty Village	OH2482	70	17	24.29
Madison Township (Williams County)	OH3129	376	1	.01
Monroe Township (Putnam County)	OH3064	843	3	.36
Pioneer Village	OH3136	583	1	.01
<b>CSR 8550-E</b>				
Buckland Village	OH2444	98	29	29.59
Cridersville Village	OH0046	766	220	28.72
Richland Township (Allen County)	OH1413	2,176	144	6.62
Shawnee Township (Allen County)	OH0583	4,833	1,308	27.06
Uniopolis Village	OH2158	83	17	20.48
<b>CSR 8551-E</b>				
Unincorporated Lewis County	KY0917 KY0592 KY0916	4,855	300	6.17
Vanceburg	KY0058	625	159	25.44

## CSRs 8552-E, 8553-E, 8554-E, 8555-E

## COMMUNITIES SERVED BY TIME WARNER CABLE INC.

Communities	CUIDs	Franchise Area Households	Cable Subscribers	Penetration Percentage
<b>CSR 8552-E</b>				
Adams Township (Darke County)	OH3051	1,264	17	1.34
Blue Creek Township (Paulding County)	OH3105	275	3	1.09
Haviland Village	OH3106	79	6	7.59
Minster Village	OH0357	1,045	288	27.56
Scott Village	OH3104 OH3112	111	9	8.11
<b>CSR 8553-E</b>				
Kingston Village	OH0667	458	135	29.48
Madison Township (Highland County)	OH3053	2,583	28	1.08
Piketon Village	OH0535	820	239	29.15
Salt Creek Township (Pickaway County)	OH1683	997	42	4.21
<b>CSR 8554-E</b>				
Harris Township (Ottawa County)	OH1457	1,221	99	8.11
Madison Township (Sandusky County)	OH3019	1,457	45	3.09
Orange Township (Hancock County)	OH2633	534	59	11.05
Rossford City	OH3137	2,568	3	.12
Toledo City	OH3138	119,730	1	.01
<b>CSR 8555-E</b>				
Hanover Township (Licking County)	OH1889	974	160	16.43
Spencer Township (Guernsey County)	OH3048	415	2	.48
Westland Township (Guernsey County)	OH3049	785	91	11.59